

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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|---|---|------------|-----------------------|
| In re Application of:                     | ) | Examiner:  | <b>Lin, Kelvin Y.</b> |
| <b>Timothy W. GENSKE</b> , et al.         | ) | Art Group: | <b>2142</b>           |
| Application No. 09/847,811                | ) | Conf. No.: | <b>6353</b>           |
| Filed: May 1, 2001                        | ) |            |                       |
| For: <b>SYSTEM AND METHOD FOR DYNAMIC</b> | ) |            |                       |
| <b>UPLOADING AND EXECUTION OF</b>         | ) |            |                       |
| <b>APPLICATIONS AND DRIVERS</b>           | ) |            |                       |
| <b>BETWEEN DEVICES</b>                    | ) |            |                       |
|   | ) |            |                       |
|   | ) |            |                       |

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**REPLY BRIEF**

As set forth in the Manual of Patent Examining Procedure ("MPEP") section 1208, Appellants respectfully submit the following Reply Brief in response to the Examiner's Answer dated November 28, 2007. No fees are believed to be due. However, Appellants authorize charging of any applicable fees, or refund of any overpayments, to be made to Deposit Account No. 02-2666.

**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below.

|                            |                         |
|----------------------------|-------------------------|
| <u>/Judith A. Szepesi/</u> | <u>January 28, 2008</u> |
| <b>Judith A. Szepesi</b>   | <b>Date</b>             |

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## **STATUS OF CLAIMS**

Claims 1-87 are pending in this application. All claims stand rejected.

### **I. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

The Examiner has rejected claims 1-26, 30, 32, 34, 36-39 and 40 under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,442,625 issued to Robinson *et al.* ("*Robinson*"). Claims 41-50 and 51-67 are also rejected under § 102(e) "for the same reason." Claims 27-29, 31, 33, 35 and 68-87 stand rejected under 35 U.S.C. § 103(a) as unpatentable over *Robinson (supra)* in view of U.S. Patent Application No. 2006/0173781 by Donner *et al.* ("*Donner*").

Appellants seek review of all rejected claims and ask the Board to overturn the Examiner's rejections based on arguments presented in support of independent claim 1, dependent claims 2-5 and 11-15; independent claim 41, independent claim 51; and dependent claims 68-87.

### **II. ARGUMENT**

#### ***1. The Examiner Misinterprets the term Executable File***

Independent claim 1 recites a method for automated transmission and execution of an executable file of interest originating from a digital camera, upon the camera's connection to a cellular phone, comprising a number of operations, including transmitting an executable file of interest from said camera to the cellular phone, and invoking execution of the executable file of interest after it has been transmitted to the cellular phone.

The Examiner asserts that the "transmitting" of an executable file is described in *Robinson* at c. 6, l. 56 through c. 7, l. 4 and c. 9, ll. 2-4. The Examiner then again points to column 7, lines 1-4 for invoking the executable file. At the cited portions of *Robinson*, it states:

FIG. 5A is a particular example of how the flash module 400 can be adapted for a particular purpose. Specifically, FIG. 5A is a block diagram of a digital camera

system 500 incorporating a flash module 501 that is capable of receiving digital photos from a digital camera and storing them in a flash memory and then, in response to the user manipulating a user input device, translating the information into a GSM interface and providing the information to a cellular phone so that the stored digital photograph can be transmitted to a remote location. The system 500 is adapted so that the user simply has to manipulate the user input device and the module 501 provides all of the necessary information to the cellular phone to instruct the cellular phone to dial a preselected telephone number and then transmit the data stored in the flash memory corresponding to a particular picture to the remote location.

As discussed above, the GSM transmission packet preferably includes a command that is recognizable by the cellular telephone such that the cellular telephone automatically dials the number of the modem 572 at the remote location and then begins transmission of the data corresponding to the stored photo data upon the completion of the communication link between the cell phone and the modem.

(emphasis added).

Thus it is clear that Robinson primarily transmits stored photo data. This is not equivalent to an executable file. Robinson also transmits a command to cause the phone to automatically dial a pre-programmed number. However, while this is a command, it is not an executable file.

It is commonly understood in the art that an executable file is one containing instructions to control the operation of a programmable processor and cause the processor to perform certain functions. The programmable processor is often an electronic device such as a microcontroller that executes machine instructions, but could also be a software interpreter (*e.g.* running on a microcontroller) that performs functions according to interpreter commands.

The information *Robinson* transmits from camera to phone is clearly not a sequence of machine instructions to be executed by the cellular phone – there is nothing in the reference that would suggest such an operational paradigm.

Therefore, Robinson does not teach or suggest the transmission of an executable file, as recited in claim 1.

## **2. The Examiner fails to Address the Two-Step Method**

Claim 1 further recites that, based on previously-determined command information, execution of the executable file of interest is invoked after the file has been transmitted to the cellular phone. In the Examiner's analysis, this operation is allegedly anticipated by the same material at c. 7, ll. 1-4, but this material merely concludes the preceding sentence, where the information transmitted to the cellular phone causes the cellular phone to dial a preselected telephone number. Thus, in *Robinson's* system, there is a single step process in which transmitting the "necessary information" to the cellular phone automatically triggers the phone to begin dialing. Thus, in Robinson's system there is only a single interaction between the camera and the phone. The camera does not perform an independent "invoking execution" operation, as recited in claim 1.

In contrast, claim 1 recites a two step process, in which an executable file is first uploaded, and subsequently invoked by the remote system. The Examiner appears to consider both steps to be anticipated by a single action of Robinson's, the sending of a command to invoke an action. Appellants respectfully submit that there are two separate steps described and claimed. The Examiner cannot combine these steps and assert that they are equivalent to a single transmission of a command. The command sent by Robinson can either be considered an executable file (unlikely) or an invocation command (more logically). But it simply cannot be both.

For at least the foregoing reasons, the Board should **overturn** the Examiner's rejection of claim 1 and hold that this claim is allowable over the prior art of record.

## **3. Claim 2**

The Examiner rejects dependent claims 2-5, which provide additional details about the executable file recited in claim 1, as anticipated by the previously-discussed portions of *Robinson* and an additional portion at c. 9, ll. 1-7. These portions of the reference fail to support the rejections.

Claim 2 specifies that the executable file of interest is a driver file.

As is known in the art, a driver contains executable instructions to control a hardware device. The information *Robinson* transmits is in no way a "driver file," as that is understood in the art.

#### **4. Claims 13-15**

The Examiner rejects claims 13-15 by reference to Robinson, Figure 5a. However, that figure simply illustrates that the

In contrast, claims 13 through 15 recite particular types of physical phone-to-camera connections. These specific physical interfaces are not taught or suggested by Robinson, and are not present in *Robinson's* Figure 5a. Robinson does not even mention the possibility of using RS-232 and Universal Serial Bus ("USB") interfaces.

#### **5. Claim 41**

Claim 41 recites, in part, a multi-device system wherein a driver is uploaded from a camera to a cellular phone, and at least one command is transmitted from the camera that invokes execution of the driver at the cellular phone.

Even assuming that the command of Robinson is equivalent to the "command which invokes the execution of the driver," the same command cannot be the driver which is uploaded. *Robinson* does not teach or suggest transmitting or uploading a driver, and subsequently transmitting a command to invoke that driver. Therefore, claim 41, and its dependent claims 42-50 are not anticipated by *Robinson*.

#### **6. Claim 51**

Independent claim 51 and some of its dependent claims (52-67) are rejected under 35 U.S.C. § 102(e) as anticipated by *Robinson*. Claim 51 includes the limitations: transmitting an executable file of interest from a first device to a host device; and transmitting host device commands to manipulate the executable file of interest at the host device.

As pointed out above, Robinson clearly does not provide a two step process in which an executable file is first transmitted, and then invoked from a remote device.

Claim 51 also includes the limitation "in response to commands transmitted to the host device, returning a reply from the host device to the first device." The host device

and first device seem to correspond to *Robinson's* cell phone and camera, respectively, but *Robinson* does not teach or suggest returning replies from the cell phone to the camera. The Examiner does not address this limitation of claim 51 directly. Thus, Appellants submit that the Examiner has failed to establish a *prima facie* case of anticipation.

The prior arguments made in the Appeal Brief are maintained with respect to all other claims. The present Reply Brief is only intended to further clarify the arguments, in light of Examiner's Answer.

### **III. CONCLUSION**

Appellants respectfully submit that the references, alone or in combination do not make the claims as they stand obvious. Therefore, based on the foregoing, Appellants respectfully submit that that the Board should overturn the rejection of claims 1-83 and hold that all of the claims currently under review are allowable.

Respectfully submitted,  
Blakely, Sokoloff, Taylor & Zafman, LLP

Dated: January 28, 2008

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